

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6419 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Patel Ramji Dhanji
versus
State of Gujarat & anr.

Appearance:

MR YS MANKAD for Petitioner
Mr A.G.Uraizee, AGP, for the respondents.

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 16/04/96

ORAL JUDGEMENT

A short, but substantial question which has emerged in this petition under Article 226/227 of the Constitution of India is whether the petitioner who is the heir of inamdar is entitled to grant of Government land after abolition of inams under the provisions of Bombay Inams (Kutch Area) Abolition Act, 1958 (Act).

2. The father of the petitioner was Inamdar of one half of Godpar village in Bhuj at Kutch who had agricultural lands and village site lands. His inam was abolished under the Act. He died leaving small piece of agricultural lands of 6 acres in village Godpar. The contention of the petitioner, son of the original deceased Inamdar, is that he has no sufficient land to maintain his family and therefore, according to the Government Resolution dated 14.7.80, as at annexure 'A', as a heir of ex-Inamdar, he is entitled to get land of one economic holding of 39 acres as per the settlement between the Inamdars and former States.

3. The petitioner had, therefore, made application dated 29.7.88 for 20 acres of land out of traverse Kharaba land of survey No.870 near Bhuj and near Godpar as in village Godpar, there was no land available. The Assistant Collector, however, by his order dated 6.9.90 rejected the application of the petitioner on the ground that the Inamdar could apply for land in the vicinity of 5 miles of his own village and that no land within 5 miles from Bhuj can be granted. The petitioner, therefore, carried the matter in an appeal before the Collector, who, summarily rejected the same on the ground of limitation. He thereafter filed revision application before the Secretary (Appeals) where he succeeded and the matter was remanded to the Collector to decide afresh on merits in accordance with law.

4. On remand, the Collector rejected the appeal of the petitioner by his order dated 31.3.92. The petitioner, therefore, preferred revision application No.18/92 before the Secretary (Appeals). The said revision also came to be dismissed. Hence this petition under Article 226/227 of the Constitution of India.

5. Learned counsel Mr Mankad while appearing for the petitioner has contended that the petitioner is entitled to grant of land on abolition of Inam and he being the heir of the Inamdar, if not within the radius of 5 miles of his own village, then in any part of the district. Reliance is also placed on the Government Resolution dated 14.7.80. He has also placed reliance on two instances wherein the land was granted to Inamdars by the Government in other talukas of the District. One Jadeja Hamirji Chandaji, Inamdar of village Khombhdi in Nakhatrana Taluka was granted 30 acres of land in village Fulay and another Inamdar Fatehsinh Mamubha Jadeja was also granted 14 acres of land in another Taluka. Relying on these two instances, it is submitted that the petitioner is also entitled to grant of land in any part

of the district or in other talukas. The aforesaid contentions are seriously controverted by the learned Assistant Government Pleader Mr Uraizee.

6. Having regard to the facts and circumstances, the submissions raised on behalf of the petitioner, by the learned counsel Mr Mankad, are not sustainable. A plain perusal of the provisions made in the Government Resolution clearly go to show that an Inamdar would be entitled to grant of land within the radius of 5 miles of the Inam concerned provided Government lands are available. It is very clear from the said Resolution that the Inamdar or his heirs are entitled to grant of specified land only within the radius of 5 miles of the Inam village and that too on availability of the Government land. The contention that the petitioner is entitled to grant of land in any other area of the same district is not acceptable. Therefore, it is required to be rejected. The instances cited in support of the submission, even if not controverted, would not take the case of the petitioner any further. There are no sufficient particulars and materials. In absence of sufficient material on record, it would not be expedient to jump to a conclusion that some persons are allotted Government waste land as Inamdar under the Act in different talukas away from inam village. Even if it is allotted also, it is not in consonance with the provisions and object of the Government Resolution dated 14.7.80. Therefore, any such instances, even if it be true, will not constitute a legal base for grant of Government waste land to the Inamdar away from his inam village under the Act. Therefore, the submissions raised on behalf of the petitioner are meritless and are required to be rejected.

7. It was also alternatively submitted by the learned counsel Mr Mankad that the petitioner would like to make a fresh representation before the Government for allotment of Government land as inamdar under the Act quoting the aforesaid instances. It will, obviously, be for the petitioner to move the appropriate authority and it will be for the appropriate authority to take decision in accordance with law.

8. Having regard to the aforesaid facts and circumstances and considering the relevant propose of law under the Act, this Court has no hesitation in finding that the present petition is worthless and is, therefore, required to be rejected. Accordingly, it is rejected. Rule discharged.
